

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

5 VFS FINANCING, INC.,
6 a Delaware corporation

7 Plaintiff,

8 v.

9 SPECIALTY FINANCIAL CORP.,
10 a Nevada corporation and NELLO
11 GONFIANTINI,

12 Defendants.

3:09-cv-00266-RCJ-VPC

ORDER

April 4, 2013

14 Before the court is plaintiff VFS Financing, Inc.'s motion to compel discovery from Stacey
15 Gonfiantini (#198)¹ and Stacey Gonfiantini's ("Stacey") motion for protective order (#227). Stacey
16 opposed plaintiff's motion to compel discovery (#227) and plaintiff replied (#256 (*sealed*)). Plaintiff
17 opposed Stacey's motion for protective order (#256) and Stacey replied (#267 (*sealed*)). The court
18 has thoroughly reviewed the record. The court grants plaintiff's motion to compel discovery from
19 Stacey Gonfiantini (#198), and denies Stacey's motion for protective order (#227).

21 **I. FACTUAL & PROCEDURAL BACKGROUND**

22 Plaintiff seeks discovery in aid of its federal judgment pursuant to Fed.R.Civ.P. 69(a).
23 Plaintiff contends that judgment debtor Nello Gonfiantini ("Nello") improperly transferred non-
24 exempt assets to his wife, Stacey, in an effort to avoid paying plaintiff the \$5.5 million judgment
25 entered against him and his company—Specialty Financial Corporation ("Specialty Financial")
26 (#198, p. 3). Plaintiff states that in order to locate Nello's concealed assets, it must obtain discovery
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¹ Refers to the court's docket numbers.

1 from Stacey. Thus, plaintiff asks the court for an order compelling Stacey to fully respond to
2 plaintiff's requests for production of documents ("RFPs"). *See* Fed.R.Civ. P. 34 and 37.²

3 Stacey contends that, as a non-party, plaintiff's RFPs subject her to annoyance,
4 embarrassment, oppression, and undue burden or expense (#227, p. 1). Stacey argues that plaintiff's
5 RFPs request broad categories of her personal financial documents, and that these requests do not
6 appear reasonably calculated to lead to the discovery of admissible evidence regarding the judgment
7 debtors' income and property. *Id.* at 1-2. She also argues that many of the requested documents can
8 be obtained from "some other source that is more convenient, less burdensome, or less expensive."
9 *Id.* at 2. Stacey asks the court for an order denying plaintiff's motion to compel discovery and
10 granting her motion for a protective order.

13 *The Gonfiantinis' Agreements*

14 On August 1, 2005, Nello Gonfiantini and Stacey Poole entered into a prenuptial agreement
15 (#264-1 (*sealed*)). On September 17, 2005, they were married (#198, p. 4). On May 6, 2006, Stacey
16 created The Stacey L. Gonfiantini Trust dated May 6, 2006 (the "Stacey Trust"). *Id.* at 5.

18 On September 15, 2006, plaintiff loaned Specialty Financial \$8.9 million for the purchase of
19 a private jet aircraft. Nello was the president of Specialty Financial and the primary intended
20 passenger of the jet aircraft. *Id.* The Note provided for one-hundred twenty (120) consecutive
21 monthly payments of \$72,770.21, followed by one balloon payment of \$4,887,770.21 (#256, p. 8
22 (*sealed*)). Nello also executed a personal guaranty ("Guaranty"), guaranteeing Specialty Financial's
23 timely repayment of the loan (#198, p. 5). On September 15, 2008, Lehman Brothers Holdings, Inc.
24 ("Lehman Brothers") filed for bankruptcy in the United States Bankruptcy Court for the Southern
25 District of New York (#256, p. 8 (*sealed*)). The Lehman Brothers' bankruptcy, coupled with
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28 ² Fed.R.Civ.P. 34 governs requests for production. Fed.R.Civ.P. 37(a) permits a party to move for a court order compelling discovery taken under Rule 34 when a non-party fails to comply with such discovery.

1 instabilities in the global lending market, set off a worldwide financial crisis. *Id.* This crisis
2 especially affected the real estate lending business—Specialty Financial’s business. *Id.* In
3 December 2008, Specialty Financial advised plaintiff that it could no longer make the monthly
4 payments for the jet aircraft (#256-1, pp. 12-14 (*sealed*)). Specialty Financial proposed lower
5 payments, which plaintiff rejected. *Id.* Shortly thereafter, Specialty Financial ceased making the
6 monthly payments, and defaulted under the terms of the Loan. *Id.* Likewise, Nello failed to make
7 the monthly payments, and defaulted under the terms of the Guaranty. *Id.*

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9 On March 30, 2009, Nello and Stacey executed an amendment to their prenuptial agreement
10 (“First Amendment”), which, among other things, transferred certain assets to Stacey’s Trust (#264-
11 2, pp. 2-3 (*sealed*)).³ On April 8, 2009, plaintiff filed its complaint against Specialty Financial,
12 seeking replevin of the jet aircraft and a monetary judgment, based on Specialty Financial’s default
13 under the terms of the Loan (#198, p. 5; #1). On May 29, 2009, plaintiff filed an amended complaint
14 which added Nello as a co-defendant, based on his default under the terms of the Guaranty (#198, p.
15 5; #20). On September 30, 2009, Nello and Stacey executed a second amendment to their prenuptial
16 agreement (“Second Amendment”), which transferred certain other assets to Stacey’s Trust (#264-3,
17 pp. 1-2 (*sealed*)). On February 14, 2012, the court entered a judgment in plaintiff’s favor and
18 against Specialty Financial and Nello, jointly and severally, in the amount of \$5.5 million (#118).
19 The judgment remains unsatisfied and is the subject of plaintiff’s ongoing collections efforts (#256,
20 p. 11 (*sealed*)).

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22 On September 19, 2012, Nello’s counsel informed plaintiff that Nello and Stacey hold no
23 community property assets, and that Nello would not produce any discovery relating to his wife’s

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27 ³ In drafting this order, the court is intentionally vague as to the terms and assets transferred within the Gonfiantinis’ pre-
28 and post-nuptial agreements, so as to preserve the Gonfiantinis’ privacy in this matter. The pre- and post-nuptial
agreements and the documents discussing those agreements have been filed under seal, and the court notes that the
parties are well aware of their contents.

1 finances or assets, as he did not have possession, custody or control of those assets (#198-6, pp. 2-3).
 2 Accordingly, on October 11, 2012, plaintiff served Stacey with a Notice of Deposition ("Notice"),
 3 along with a Request for Production of Documents ("RFPs") (#227-1, pp. 2-17; #169). On
 4 November 19, 2012, Stacey objected to plaintiff's RFPs on the grounds that they were "overbroad
 5 and unduly burdensome," as she is "not the debtor in this matter, nor is she a party" (#198-7, pp. 2-
 6 5). Thereafter, counsel discussed Stacey's objections in an effort to resolve the impasse, but could
 7 not reach an agreement (#198, p. 8). On December 7, 2012, Stacey responded to RFP No. 9 by
 8 providing a copy of her marriage license, and responded to RFP No. 10 by stating that her husband
 9 had already produced all of their pre- and post-nuptial agreements (#198-8, p. 2).

12 On December 17, 2012, plaintiff filed the instant motion to compel discovery from Stacey
 13 Gonfiantini (#198). In this motion, plaintiff asks the court to compel Stacey to respond to RFPs Nos.
 14 1-8 and 11-13 (#198, p. 8).⁴ Plaintiff contends this discovery is necessary to conduct Stacey's
 15 deposition⁵ and determine Nello's attachable assets. *Id.*

17 The RFPs in dispute are:

- 18 1. All documents evidencing any estate, will or trust in which You may be named beneficiary,
 19 legatee, distributee, executor, trustee, or otherwise named.
- 20 3. All financial statements prepared by You or on Your Behalf for the calendar years 2006
 21 through 2012.
- 22 4. All account statements relating to any checking, savings, or other depository accounts
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24 ⁴ It appears that plaintiff actually desires discovery for RFP Nos. 1, 3-7, and 12-13. RFP No. 2 requests, "All tax returns
 25 (and/or extensions) filed by You or on Your behalf with federal, state, or local filing authorities for the calendar years
 26 2006 through 2011" (#169, p. 6). Stacey responded to this RFP by stating that she and her husband filed joint tax
 27 returns, and that plaintiff already has possession of those documents. RFP No. 8 requests, "All documents evidencing a
 28 marriage between You and Defendant, including, but not limited to all marriage licenses and certificates." *Id.* The court
 notes that Stacey has already turned over a copy of her marriage license. RFP No. 11 requests, "All documents
 evidencing any prenuptial or postnuptial agreement between You and any other person." *Id.* The parties agree that
 Nello has disclosed the prenuptial agreement, First Amendment and Second Amendment (#198-8, p. 2). If any pre- or
 post-nuptial agreements between Stacey and a former spouse exist, such evidence is irrelevant.

⁵ Stacey's deposition occurred on January 31, 2013 (#267-1 (*sealed*)).

maintained at any financial institution for You, directly or indirectly, and any entities owned or controlled by You, or with which You were affiliated, for each month for the calendar years 2006 through 2012.

5. All documents evidencing any physical asset or personal property owned in whole or in part by You, including, but not limited to: (a) the title of the asset; (b) documents evidencing the present location of the asset; and (c) documents evidencing any lien on the asset.
6. All documents evidencing any real estate owned in whole or in part by You, including, but not limited to: (a) the title of the real estate; (b) documents evidencing a mortgage on the real estate; and (c) documents evidencing a tenancy relationship relating to the real estate, including the names and monthly rentals paid by each tenant.
7. All documents evidencing any motor vehicles, farm equipment, or machinery owned in whole or in part by You, including, but not limited to: (a) the title to the vehicle, equipment, or machinery; and (b) documents evidencing a lien thereon.
12. All documents evidencing any gift, bequest, devise, descent or by an award for personal injury damages, with the rents, issues and profits thereof in which You are entitled to, have received, or may be named beneficiary, legatee, distributee, executor, trustee, or otherwise named.
13. All documents evidencing any interests in IRA, ERISA, Keogh, or other pension or profit sharing plans, including without limitation any 529 educational plan, in which You may be named beneficiary, legatee, distributee, executor, trustee, custodian, or otherwise named.

On January 10, 2013, Stacey filed this motion for a protective order on the grounds that plaintiff's RFPs subject her to annoyance, embarrassment, oppression, and undue burden or expense (#227, p. 1). Stacey asserts that plaintiff's broad requests for her personal financial documents do not appear reasonably calculated to lead to the discovery of admissible evidence regarding the judgment debtors' income and property. *Id.* at 1-2. Stacey also asserts that many of the requested documents can be obtained from "some other source that is more convenient, less burdensome, or less expensive." *Id.* at 2.

II. DISCUSSION & ANALYSIS

A. Relevant Law

Fed.R.Civ.P. 69(a)(2) governs discovery in judgment enforcement proceedings. *Internet Direct Response, Inc. v. Buckley*, No. SACV 09-01335 ABC (MLGx), 2010 WL 1752181, at *2 (C.D.Cal.April 29, 2010). The rule provides that a judgment creditor “may obtain discovery from any person--including the judgment debtor--as provided in these rules or by the procedure of the state where the court is located.” Fed.R.Civ.P. 69(a) (emphasis added). One purpose of post-judgment discovery is “to identify assets that can be used to satisfy a judgment.” *Ryan Investment Corp. v. Pedregal de Cabo San Lucas*, No. C 06-3219 JW (RS), 2009 WL 5114077, at *1 (N.D.Cal.Dec. 18, 2009) (citation omitted). Another purpose is “to discover concealed or fraudulently transferred assets.” *Id.* (citation omitted). The scope of post-judgment discovery is “very broad,” *Henry v. Rizzolo*, No. 2:08-CV-00635-PMP-GWF, 2012 WL 13725, at *3 (D.Nev.Jan. 4, 2012), and the rule entitles a judgment creditor to “a very thorough examination of the judgment debtor.” *Caisson Corp. v. County West Bldg. Corp.*, 62 F.R.D. 331, 335 (E.D.Pa.1974) (“The presumption should be in favor of full discovery of any matters arguably related to the [creditor’s] efforts to trace [the debtor’s] assets and otherwise enforce the judgment.”). Although Fed.R.Civ.P. 69 can authorize the proverbial fishing expedition, a judgment creditor “is entitled to fish for assets of the judgment debtor.” *Ryan Investment Corp.*, 2009 WL 5114077, at *4 (citations omitted) (emphasis in original).

A judgment creditor may obtain discovery from both parties and non-parties alike. *Henry*, 2012 WL 13727, at *3; *Caisson Corp.*, 62 F.R.D. at 335; *Alpern v. Frishman*, 465 A.2d 828, 829 (D.C.1983) (judgment creditor has the right to discover judgment debtor’s hidden or concealed assets through discovery of third-parties). In general, a judgment creditor may inquire into a third-

1 party's knowledge of the debtor's finances and assets, but may not delve into the third-party's
2 personal finances and assets. *Alpern*, 465 A.2d at 829. However, there are exceptions to this general
3 rule. *See id.* ("Cases that have recognized exceptions to the general rule . . . have involved . . .
4 factual circumstances in which it appeared that some transfer of assets from the judgment debtor to
5 the third party actually had occurred."). In these cases, discovery which delves into a third-party's
6 assets is permissible where the "relationship between the judgment debtor and the [third-party] is
7 sufficient to raise a reasonable doubt about the bona fides of the transfer of assets between them."
8 *Magnaleasing, Inc. v. Staten Island Mall*, 76 F.R.D. 559, 562 (S.D.N.Y.1977) (citing *Caisson Corp.*,
9 62 F.R.D. at 335); *Alpern*, 465 A.2d at 829.

12 "Where spouses are involved, even a slight showing that there has been a transfer of property
13 from the debtor spouse to the other spouse" may be sufficient for the court to allow a judgment
14 creditor to delve into the personal assets of a third-party. *Alpern*, 465 A.2d at 829; *see also Falicia*
15 *v. Advanced Tenant Services, Inc.*, 235 F.R.D. 5, 9 (D.C.2006). However, the inquiry must "be kept
16 pertinent to the goal of discovering concealed assets of the judgment debtor and not be allowed to
17 become a means of harassment . . ." *Caisson*, 62 F.R.D. at 334 (citations omitted).

19 **B. Analysis**

20 Plaintiff contends it is entitled to investigate the "bona fides" of any asset transfers between
21 Nello and Stacey (#198, p. 16). Plaintiff argues that as Nello's wife, Stacey is the "quintessential
22 insider," and that the Gonfiantinis amended their prenuptial agreement precisely at the time that
23 Nello's financial empire was collapsing to "expedite certain other benefits to Stacey" (#198, p. 16;
24 #264-2, Recital F (*sealed*)). Plaintiff also argues that its RFPs are not overly broad or unduly
25 burdensome, but are "reasonably calculated to lead to the discovery of admissible evidence" in that
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1 they seek information about assets which Nello may have improperly transferred to his wife (#198,
2 p. 16). *See* Fed.R.Civ.P. 26(b)(1).

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4 Stacey contends that as a non-party, she is not under the same discovery obligations as the
5 judgment debtors (#227, p. 4). Stacey asserts that in order for a judgment creditor to discover a non-
6 party's personal assets, the judgment creditor must establish two things: (1) a close relationship
7 between the judgment debtor and the non-party, and (2) a fraudulent or bad faith transfer of assets
8 between the judgment debtor and the non-party. *Id.* at 8. Stacey admits that she has a close
9 relationship with judgment debtor Nello, as she is married to him. *Id.* at 9. However, Stacey argues
10 that there is no evidence that her husband engaged in any fraudulent or bad faith transfer of assets.
11 *Id.* Stacey also contends that plaintiff's RFPs do not appear reasonably calculated to lead to the
12 discovery of admissible evidence regarding the judgment debtors' income and property; and that in
13 light of her non-party status, responding to such requests would be unduly burdensome. *Id.* at 1-2, 6.
14 She also avers that many of the documents plaintiff requests can be obtained from "some other
15 source that is more convenient, less burdensome, or less expensive." *Id.*

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17 Plaintiff replies that it is not required to establish evidence of a fraudulent or bad faith
18 transfer of assets (#256, p. 4-5 (*sealed*)). Rather, pursuant to *Alpern*, plaintiff contends that a mere
19 transfer of assets from the judgment debtor to his non-debtor spouse is sufficient to compel
20 discovery of that spouse's assets. *Id.* Plaintiff also replies that even if it were required to establish a
21 fraudulent or bad faith transfer of assets in order to compel discovery from the non-debtor spouse,
22 here, such evidence exists. *Id.* at 5.

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24 Stacey's position is that plaintiff's version of the standard to compel discovery from a non-
25 debtor spouse is inaccurate, and that plaintiff must provide evidence that her husband transferred
26 assets fraudulently, or in bad faith (#267, pp. 2-3 (*sealed*)). Stacey argues that plaintiff has not
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1 produced the requisite evidence; and thus, plaintiff is not entitled to discover her separate assets. *Id.*
2 at 5-11. Finally, Stacey claims that she should not be compelled to produce documents relating to
3 her husband's monthly transfer of \$3000 of community property funds into her separate account. *Id.*
4 at 11-12.
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6 **1. Discovery from a Judgment Debtor's Spouse**

7 There are several persuasive cases from other jurisdictions which inform the court's opinion
8 as to when a judgment creditor may compel discovery from a non-debtor spouse. In *Alpern v.*
9 *Frishman*, 465 A.2d 828 (D.C.1983), the judgment creditor wished to discover whether the judgment
10 debtor had fraudulently conveyed assets to his wife in order to avoid attachment. *Id.* at 828. At her
11 deposition, the judgment debtor's wife answered questions concerning the couple's joint finances.
12 *Id.* at 828-29. However, she refused to answer questions concerning her personal finances. *Id.* at
13 829. Thereafter, the judgment creditor moved the court for an order compelling the wife to testify
14 regarding her personal finances. *Id.* The trial court denied the motion on the grounds that the
15 judgment creditor failed to make a sufficient showing that the judgment debtor had actually
16 transferred any funds to his wife.⁶ *Id.* The District of Columbia Court of Appeals upheld the trial
17 court's decision on the grounds that the judgment creditor had not shown that there had been a
18 transfer of property from the judgment debtor to his wife. *Id.*
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22 The court finds *Alpern* to be instructive, and yet, distinguishable from the present case. The
23 *Alpern* court acknowledged that "[w]here spouses are involved, even a slight showing that there had
24 been a transfer of property from the debtor spouse to the other spouse could suffice to establish that
25 discovery should be allowed. Here there was no showing." *Id.* In *Alpern*, the court denied the
26 judgment creditor's motion to compel solely on the ground that there was no evidence that the
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⁶ The wife also executed an affidavit stating that she had received no funds from her husband. *Id.*

1 judgment debtor had transferred any funds to his wife. Here, there is no dispute that Nello
2 transferred multiple assets to the Stacey Trust in both the First and Second Amendments to the
3 Gonfiantinis' prenuptial agreement. Accordingly, the result in *Alpern* does not govern this case.

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5 Another case which the court finds factually similar to the instant matter is *Internet Direct*
6 *Response, Inc. v. Buckley*, No. SACV 09-01335 ABC (MLGx), 2010 WL 1752181 (C.D.Cal. April
7 29, 2010). In *Internet Direct*, the court ordered Corrine Buckley, the judgment debtor's wife, to
8 appear for a third-party examination. *Id.* at *1. During questioning, Ms. Buckley asserted that the
9 judgment creditor could not inquire into her personal assets because she did not hold any community
10 property with her husband pursuant to two post-nuptial agreements. *Id.* Ms. Buckley also objected
11 to the judgment creditor's requests for document production and moved the court for a protective
12 order: "(1) prohibiting Plaintiff from requiring her to produce 'personal records' or 'personal
13 financial records' related to 'her separate property' at the examination and (2) prohibiting Plaintiff
14 from questioning her about 'her separate owned property' at the examination." *Id.*

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17 The court stated that the fact that the Buckleys entered into two postnuptial agreements and
18 filed separate tax returns did "not eliminate the Court's doubt regarding the validity of asset transfers
19 between them." *Id.* at *4. The court noted that "[b]oth of the postnuptial agreements, which purport
20 to separate the couple's property interests, were entered into at times when Mr. Buckley had incurred
21 or was anticipating significant debt, raising questions about the motive for the transfer." *Id.* The
22 court also pointed out that whether the Buckleys held any community property was a "legal
23 determination for a court to decide once the parties have collected all of the relevant facts." *Id.*
24 Thus, the court denied Ms. Buckley's motion for a protective order and ordered her examination to
25 proceed. *Id.* at *5.⁷

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⁷ See also *Parkhurst v. Tabor*, No. 07-CV-2068, 2009 WL 1872793, at *2 (W.D.Ark. June 30, 2009) (court ordered

1 The court has analyzed the Gonfiantinis' prenuptial agreement, First Amendment and Second
2 Amendment, and notes that these agreements make significant asset transfers from Nello to Stacey's
3 Trust. Nello and Stacey have also admitted that each of the transfers referenced in their pre- and
4 post-nuptial agreements actually occurred. The court finds that the creation of the two post-nuptial
5 agreements "does not eliminate the [c]ourt's doubt" as to the propriety of Nello's asset transfers to
6 his wife. *See Internet Direct*, 2010 WL 1752181 at *3. At the time the Gonfiantinis entered into the
7 First Amendment, Nello had already defaulted under the terms of the Guaranty, and the possibility
8 of future litigation was apparent. At the time the Gonfiantinis entered into the Second Amendment,
9 plaintiff had filed its amended complaint, which added Nello as a co-defendant in this litigation.
10 Nello was clearly apprised that a judgment may be entered against him for a substantial amount of
11 money, and he would have been motivated to secure himself and his family against loss. In short,
12 the timing of events "raises doubts about the propriety of the transfers," and the court finds that
13 "plaintiff should be permitted further exploration." *See Magnaleasing*, 76 F.R.D. at 562 ("The scope
14 of plaintiff's rights cannot be governed by agreement of his adversaries.").

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18 Stacey asserts that plaintiff must establish that her husband transferred assets fraudulently or
19 in bad faith in order to compel discovery of her alleged "separate" assets. The court disagrees.
20 Discovery that delves into a third-party's assets is permissible where the "relationship between the
21 judgment debtor and the [third-party] is sufficient to raise a reasonable doubt about the bona fides of
22 the transfer of assets between them." *Magnaleasing*, 76 F.R.D. at 562 (citing *Caisson Corp.*, 62
23 F.R.D. at 335); *Alpern*, 465 A.2d at 829. The court need not determine whether Nello actually
24 transferred assets to his wife fraudulently or in bad faith. Rather, the court need only decide whether
25 the factual circumstances "raise a reasonable doubt" as to the propriety of Nello's asset transfers.
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judgment debtor's wife to turn over her personal state and federal tax returns so that judgment creditors could determine to what extent judgment debtor and his wife had co-mingled assets that the wife claimed she owned separately).

1 *See id.* As stated above, the mere timing of the significant asset transfers involved in the First and
2 Second Amendments, whether fraudulent or not, are “sufficient to raise a reasonable doubt” about
3 their bona fides. Further, the court agrees that “[w]here spouses are involved, even a slight showing
4 that there has been a transfer of property from the debtor spouse to the other spouse” is sufficient for
5 the court to allow a judgment creditor to delve into the personal assets of the non-debtor spouse.
6 *Alpern*, 465 A.2d at 829.

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8 Stacey also asserts that plaintiff’s RFPs subject her to annoyance, embarrassment,
9 oppression, and undue burden or expense because they do not appear reasonably calculated to lead to
10 the discovery of admissible evidence regarding the judgment debtors’ income and property. The
11 court recognizes that the inquiry into a non-party’s personal assets must “be kept pertinent to the
12 goal of discovering concealed assets of the judgment debtor and not be allowed to become a means
13 of harassment . . .” *Caisson*, 62 F.R.D. at 334 (citations omitted). However, the court also
14 recognizes that the scope of post-judgment discovery is very broad, *Henry*, 2012 WL 13725, at *3,
15 and “[t]he presumption should be in favor of full discovery of any matters arguably related to the
16 [creditor’s] efforts to trace [the debtor’s] assets and otherwise enforce the judgment.” *Caisson*
17 *Corp.*, 62 F.R.D. at 335. The court has reviewed plaintiff’s RFPs and finds that they are reasonably
18 calculated to lead to the discovery of admissible evidence concerning judgment debtor Nello’s
19 possible concealed assets. Further, the court finds no evidence that plaintiff’s propounded RFPs will
20 subject Stacey to undue annoyance, embarrassment or harassment.

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22 Finally, Stacey asserts that she should not be compelled to produce documentation
23 concerning the \$3,000.00 of community property funds that her husband transfers into her account
24 every month because it is more convenient for her husband to produce this discovery. The court
25 disagrees. First, the court notes that whether an asset is labeled as community property or separate
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property is a matter of law. *See Internet Direct*, 2010 WL 1752181, at *4. Second, the court fails to see how it would be more convenient for Nello to produce these records. Nello has stated that he has no custody or control of his wife's financial information, and the funds at issue are allegedly housed in Stacey's separate account. Therefore, plaintiff is entitled to obtain this discovery directly from Stacey.

III. CONCLUSION

Based on the foregoing and for good cause appearing, the court concludes that plaintiff is entitled to obtain its requested discovery concerning Stacey's assets to aid plaintiff in locating judgment debtor Nello's assets.

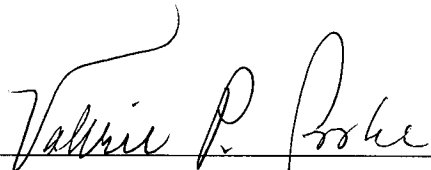
IT IS THEREFORE ORDERED that plaintiff's motion to compel discovery from Stacey Gonfiantini (#198) is **GRANTED**.

IT IS FURTHER ORDERED that Stacey Gonfiantini's motion for protective order (#227) is **DENIED**.

Stacey Gonfiantini is **ORDERED** to fully respond to plaintiff's RFPs Nos. 1-7 and 12-13, and shall have until April 18, 2013, to produce the requested discovery.

IT IS SO ORDERED.

DATED: April 4, 2013.


UNITED STATES MAGISTRATE JUDGE